

**RESOLUTION NO.**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AMENDING, SUBJECT TO CONDITIONS, HISTORIC PRESERVATION PERMIT FILE NO. HP16-002 REVISING THE TERMS TO BE CONSISTENT WITH THE DOWNTOWN WEST MIXED-USE PROJECT ON THE SAN JOSE WATER WORKS CITY LANDMARK, ON A NEW 0.31-GROSS ACRE MODIFIED LANDMARK BOUNDARY, LOCATED AT 374 WEST SANTA CLARA STREET, IN DOWNTOWN SAN JOSE**

**FILE NO. HP20-002**

**WHEREAS**, pursuant to the provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, on October 7, 2020, an application (File No. HP20-002) was filed by the applicant, Google LLC, with the City of San José for a Historic Preservation Permit Amendment to amend the Historic Preservation Permit approved by the City of San José Director of Planning, Building and Code Enforcement on May 11, 2016 (File No. HP16-002) revising the previous terms to be consistent with the Downtown West Mixed-Use Plan Project (Google Project), which includes retaining the existing approval to demolish the non-contributing structures on site, to carry out landscape and hardscape site improvements, and to relocate the Transformer House on the modified 0.31 gross acre site, and removing activities that are no longer proposed under the former project (i.e., underground garage and access); and

**WHEREAS**, the San José Water Works is a City Landmark on that certain real property situated in the A(PD) Planned Development Zoning District and is located at 374 West Santa Clara Street, is bounded by West Santa Clara Street to the north, the Guadalupe River/Flood Channel to the east, and a surface parking lot to the south and west, and contains a small portion of the surface parking lot, the San José Water Works Main Office building, the Transformer House, and several non-contributing structures (which real property is sometimes referred to herein as the “subject property”); and

**WHEREAS**, the subject property is all that real property more particularly described in Exhibit "A," entitled "Legal Description," which is attached hereto and made a part hereof by this reference as if fully set forth herein; and

**WHEREAS**, pursuant to and in accordance with Section 13.48.290 of Title 13 of the San José Municipal Code, the Historic Landmarks Commission conducted a hearing on said application on March 17, 2021, notice of which was duly given; and

**WHEREAS**, at said hearing, the Historic Landmarks Commission gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

**WHEREAS**, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, this City Council conducted a hearing on said application, notice of which was duly given; and

**WHEREAS**, at said hearing, this City Council gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

**WHEREAS**, at said hearing, this City Council received and considered the reports and recommendations of the City's Historic Landmarks Commission and the City's Director of Planning, Building and Code Enforcement; and

**WHEREAS**, at said hearing, this City Council received in evidence a plan for the subject property entitled, "Amendment to Historic Preservation Permit File No. HP16-002," last updated dated March 1, 2021, said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

**WHEREAS**, said public hearing before the City Council was conducted in all respects as required by the San José Municipal Code and the rules of this City Council; and

**NOW, THEREFORE**, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

After considering all of the evidence presented at the Public Hearing, the City Council finds that the following are the relevant facts and findings regarding this proposed project:

1. The subject property is the site of the San José Water Works City Landmark which contains two historic resources, the two story Moderne and Spanish Colonial Revival Main Office Building built in 1934 and 1940 and designed by Ernest N Curtis of Binder and Curtis, and a one-story Transformer House built in 1913.
2. San José Water Works is a designated City Landmark HS91-57 (Resolution 63381), listed on the California Register of Historical Resources and determined eligible for listing in the National Register of Historic Places.
3. The Historic Landmarks Commission (HLC) held a public hearing for HP16-002 on May 4, 2016 to review the proposed demolition of the non-historic building additions to the San José Water Works building, relocation of the Transformer House, construction of an underground garage and garage access structure, a paved plaza, and landscaping. The HLC recommended approval and the Planning Director approved the HP Permit on May 11, 2016. The work was determined not to be detrimental to the two historic resources on site and to be consistent with the spirit and purposes of Chapter 13.48 of Title 13 of the San José Municipal Code in that it complied with the Secretary of the Interior's Standards for Rehabilitation. The 1913 Electrical Pump House (major alterations circa 1920 and 1984-1985), a 1985 breezeway, 1984-1985 Data Processing building, and a circa 1920-1943 Suction Basin (round, reinforced concrete cistern) altered in the 1980s were determined to be non-contributing resources to the San José Water Works City Landmark because were either extensively remodeled and lack historic integrity or were constructed in the 1980s. HP16-002 was issued on May 23, 2016.
4. The Historic Preservation Permit Amendment would continue to allow the demolition of the non-contributing structures, the onsite relocation of the Transformer House, landscaping and hardscape site improvements, and also remove reference to the former Conforming Planned Development Rezoning and Planned Development Permit File Nos. PDC15-052 and PD15-061.
5. This Historic Preservation Permit Amendment is on file concurrently with the Downtown West Mixed-Use Plan Project (Google Project) which includes a General Plan Amendment, Planned Development Rezoning, Planned Development Permit, Historic Landmark Boundary Amendments, Historic Preservation Permit Amendment, Vesting Tentative Map and Development Agreement (File Nos. GP19-009, PDC19-039, PD19-029, and PT20-027).
6. The site is approximately 0.31 gross acres in the DC(PD) Planned Development Zoning District.
7. The site is located at the corner of West Santa Clara Street and the Guadalupe River/Flood Channel.

8. This site has a land use designation of Downtown on the adopted Envision San Jose 2040 General Plan Land Use/Transportation Diagram.
9. An Environmental Impact Report (EIR) for the Downtown West Mixed-Use Plan Project was prepared for the project under the provisions of the California Environmental Quality Act of 1970, as amended, including the state and local implementing regulations. The Draft EIR was circulated for public review from October 7, 2020 to December 8, 2020. Public comments on the Draft EIR were received and addressed as part of the formal EIR review process.
10. The Historic Preservation Permit Amendment was considered by the HLC during a public hearing on March 17, 2021. The HLC voted (XXXX) to recommend approval with conditions, to the City Council.

The City Council concludes and finds, based on the analysis of the above facts, that:

1. The Downtown West Mixed-Use Plan Project is consistent with the Downtown designation in the Envision San José 2040 General Plan Land Use/Transportation Diagram because it supports a range of uses and redevelopment at high intensities such as hotel, office, retail, residential and entertainment uses in Downtown, and the primary building on site, the Main Office building, will be occupied with adaptive uses compatible with those allowed in the Downtown designation. The project is also consistent with Envision San José 2040 General Plan land use goals LU-13 and LU-16 because the San José Water Works City Landmark will continue to maintain its historic significance and integrity, and the two historic resources - Main Office building and Transformer House - will continue to promote an awareness of the site's history and a historic identity for San José. The Main Office building will be preserved in its original location on the modified parcel size with the Transformer House and will retain the sense of place for the San José Water Works, which has always been an important presence at the gateway to downtown. The conservation of the Main Office building and future reuse as part of the Downtown West Mixed-Use Plan Project will also support the City's environmental and economic sustainability goals.
2. The HP Permit Amendment is limited to the removal of non-contributing structures, the onsite relocation of the Transformer House adjacent to the Main Office building and landscape and hardscape site improvements. The Downtown West Mixed-Use Plan Project will not alter the general character, use, or intensity of the San José Water Works City Landmark, nor degrade protections of the historic elements of any buildings on site. The property maintains the "Downtown" Envision San José 2040 General Plan Land Use/Transportation Diagram designation, which supports a range of uses and redevelopment at high intensities such as hotel, office, retail, residential and entertainment uses in Downtown. The development within the Downtown designation should enhance the "complete community" in downtown, support pedestrian and bicycle circulation, and increase transit ridership. Similarly, the Downtown West Mixed-Use Plan designated the San José Water Works City

Landmark for “Active” use and situates the site in the “Core” Character Zone. Under Downtown West Mixed-Use Plan, “Active” uses include retail, restaurants, small businesses, cultural and other community-oriented uses. The “Core is the social heart of the development and aims to provide retail-lined public open spaces, creek ecology and cultural amenities.

3. The Downtown West Mix-Use Plan Project Final EIR was adopted on XXXX by City Council Resolution XXXXX. The EIR found that the project would have a Less than Significant Impact on the San José Water Works City Landmark.

In accordance with the findings set forth above, a Historic Preservation Permit Amendment to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby approved. This City Council expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use permitted hereby **GRANTED**.

**APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **Acceptance of Permit Amendment.** Per Section 13.48.270, should the applicant fail to file a timely and valid appeal of this Permit Amendment within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
  - a. Acceptance of the Permit Amendment by the applicant; and
  - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 13 applicable to such Permit Amendment.
2. **Building Permits.** Obtainment of a moving and demolition permit is evidence of acceptance of all conditions specified in this document and the applicant's intent to fully comply with said conditions.
3. **Demolition Permit.** A demolition permit may be issued for the non-contributing structures indicated on the Approved Plans only upon the application of a moving permit for the Transformer House. Any modification to this precondition shall require approval of a Historic Preservation Permit Adjustment.
4. **Conformance with Plans.** Construction and development shall conform to the conditions in this Permit Amendment and the approved Historic Preservation Permit Amendment plans, titled “Amendment to Historic Preservation Permit File No. HP16-002,” last updated dated March 1, 2021, on file with the Department of Planning Building, and Code Enforcement. If there are inconsistencies between the Permit Amendment and the plans, this Permit takes precedence.



5. **Deadline for Commencing Construction.** This Historic Preservation Permit Amendment shall automatically expire four (4) years from and after the date of issuance hereof by said City Council if within such four-year period construction of buildings, pursuant to and in accordance with the provisions of this Historic Preservation Permit Amendment, has not commenced. The date of issuance is the date this Permit Amendment is approved by the City Council. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit Amendment.
6. **Exterior Alterations.** No demolition or relocation may be implemented unless and until this Historic Preservation Permit Amendment is released to the Building Division.
7. **Damage.** If any character-defining feature of the Main Office building or Transformer House is damaged during the demolition or the relocation process, the feature shall be repaired in-kind to match the original as closely as possible.
8. **HPAD20-006.** Historic Preservation Permit Adjustment HDAD20-006 approved on August 10, 2020 for the replacement of windows and the addition of new openings on the San José Water Works Main Office in accordance with the Secretary of the Interior's Standards shall remain in effect.
9. **Historic Preservation Permit Adjustment:** Following the demolition of the non-contributing structures and the relocation of the Transformer House, the Permittee shall apply for a Historic Preservation Permit Adjustment to effectuate the landmark designation amendment (File No. HL20-005), approved by City Council on May [REDACTED], 2021, modifying the boundary of the San José Water Works from 0.96-gross acres to 0.31-gross acres.
10. **Construction Hours.** Construction and grading activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday.
11. **Recycling.** Scrap construction and demolition material shall be recycled and potential historic resources to be demolished shall be salvaged at a nearby salvaging facility. Integrated Waste Management staff can aid on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
12. **Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings.
13. **Revocation.** This Historic Preservation Permit Amendment is subject to revocation for violation of any of its provisions or conditions.

14. **Conformance with Municipal Code.** No part of this approval shall be construed to permit violation of any part of the San José Municipal Code.
15. **Public Works.** Prior to the issuance of building permits, the Permittee will be required to have satisfied all of the following Public Works conditions. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/index.aspx?nid=2246>.
16. **Conformance to Other Approvals.** This permit can only be implemented in conjunction and in full compliance with all conditions contained in the associated Planned Development Permit, File No. PD19-029.
17. **Bureau of Fire Department Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the project must comply with the California Fire Code.
18. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
  - a. *Construction Plans.* This permit file number, *HP20-002*, shall be printed on all construction plans submitted to the Building Division.
  - b. *Americans with Disabilities Act.* The applicant shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
  - c. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
19. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
20. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
21. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 24 hours of defacement.
22. **Nuisance.** As required by Title 20 of the San Jose Municipal Code, construction on this site shall be conducted in a manner, which does not create a public or private nuisance. The property owner must abate any such nuisance immediately upon notice.
23. **Revocation, Suspension, Modification.** This Historic Preservation Permit Amendment may be revoked, suspended or modified by the City Council at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed

hearing in accordance with Section 13.48.290 of the San Jose Municipal Code it is found that:

- a. A violation of any conditions of the Historic Preservation Permit Amendment was not abated, corrected or rectified within the time specified on the notice of violation; or
- b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation.

**24. Conformance Required with Approved Mitigation, Monitoring and Reporting Program for the Final Environmental Impact Report (FEIR) for the Downtown West Mixed-Use Plan** adopted by City Council by Resolution No. \_\_\_\_\_.

In accordance with the findings set forth above, a permit to use the subject property for said purpose specified above is hereby approved.

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APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
SAM LICCARDO  
Mayor

ATTEST:

\_\_\_\_\_  
TONI J. TABER, CMC  
City Clerk



**NOTICE TO PARTIES**

*The time within which judicial review must be sought to review this decision is governed by the provisions of the California Code of Civil Procedure Section 1094.6.*

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